STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE 7012 JUN -4 AM ISOPERIOR COURT DIVISION

FILE NO.: 12 CVS 3995

WAKE COUNTY

WAKE COUNTY. C.S.C.

THE NORTH CAROLINA STATE BAR,

v.

BY_

Petitioner

AMENDED CONSENT ORDER OF PRELIMINARY INJUNCTION

LUTHER A. DOUGLAS III, Attorney,

Respondent

THIS MATTER is before the undersigned Judge of Superior Court of Wake County upon the parties' request to modify the terms of the Consent Order of Preliminary Injunction entered by this Court on 20 March 2012 to permit Respondent to disburse fiduciary funds to successor fiduciaries. Petitioner was represented by Carmen H. Bannon. Respondent, Luther A. Douglas III, represented himself. Based upon the consent of the parties, the Court makes the following:

FINDINGS OF FACT

- 1. Respondent, Luther A. Douglas III ("Douglas"), was licensed to practice law in North Carolina in 1984.
- 2. Douglas's address of record on file with the North Carolina State Bar is P.O. Box 1112, Laurinburg, NC, 28353.
- 3. In August 2011, the North Carolina State Bar served Douglas with a Letter of Notice and request for trust account documentation in grievance file #11G0662. In October 2012 Douglas produced some of the requested records related to his attorney trust account.
- 4. The State Bar's preliminary examination of the records produced by Douglas indicated that Douglas failed to comply with several of the provisions of Rules of Professional Conduct 1.15-2 and 1.15-3, regarding handling entrusted funds and trust account management.
 - 5. Douglas desires to cooperate with the North Carolina State Bar.
- 6. While the State Bar reviews the matter and affected accounts, a need for prompt action exists to ensure that funds entrusted to Douglas are properly safeguarded.

- 7. Douglas has been the acting fiduciary of the following estates in Scotland County:
 - a) Jackie Lindsay, file # 93-E- 217 (Guardianship); and
 - b) Margaret Louise McRae Douglas, file # 07-E-308 (Decedent).
- 8. Douglas tendered to the Clerk of Superior Court his written resignation as fiduciary of the above-referenced estates, and the Clerk has appointed a successor fiduciary for each of these estates.
- 9. Margaret Douglas Thomas has been appointed as successor fiduciary of the Estate of Margaret Louise McRae Douglas, as evidenced by the order attached as Exhibit A.
- 10. William R. Purcell II has been appointed as successor fiduciary of the Jackie Lindsay estate, as evidenced by the order attached as Exhibit B.
- 11. Douglas controls fiduciary accounts at BB&T containing funds he holds for the benefit of the estates identified in paragraph 7.
- 12. To ensure the continued administration of these estates for the benefit of the interested parties, the fiduciary funds currently held by Douglas should be transferred to the successor fiduciaries.

Based upon the foregoing Findings of Fact, the Court makes the following

CONCLUSIONS OF LAW

- 1. Prompt action, pursuant to N.C. Gen. Stat. 84-28(f), is necessary to preserve the status quo while the State Bar conducts an analysis of Douglas's trust, fiduciary, and/or operating accounts and to ensure that client funds are properly safeguarded.
- 2. Until permitted to do so by further order of this Court, Douglas should be enjoined from accepting any further funds from or on behalf of clients or other individuals in any fiduciary capacity, from writing checks against any account in which client or fiduciary funds have been deposited, and from directing any employee or agent to draw a check on any account in which client or fiduciary funds have been deposited, except as expressly authorized by this order.
- 3. To assist the State Bar's analysis of his trust and operating accounts, Douglas should provide the State Bar, to the extent not already provided, with records of all accounts in which client or fiduciary funds have been deposited.

- 4. Douglas should not be permitted to serve in any fiduciary capacity, including trustee, escrow agent, settlement agent, personal representative, executor or attorney-in-fact until and unless permitted to do so by further order of this Court.
- 5. Douglas should transfer all assets he holds in a fiduciary capacity for the estates identified in paragraph 7 above to the successor fiduciaries appointed by the Scotland County Clerk of Superior Count so that the estates can continue to be administered for the benefit of the interested parties.

THEREFORE, IT IS HEREBY ORDERED:

- 1. Luther A. Douglas III is enjoined from accepting or receiving any funds from clients or third parties in any fiduciary capacity, from withdrawing any funds from and/or drawing any checks or other instruments against any account in which client or fiduciary funds have been deposited and from directing any employee or agent to withdraw funds from and/or to draw any checks or other instruments against any account in which client or fiduciary funds have been deposited until and unless permitted by subsequent orders of this Court.
- 2. Douglas or any other person having custody or control of records relating to any account into which client or fiduciary funds have been deposited shall immediately produce to the North Carolina State Bar for inspection and copying all of Douglas's financial records relating to any account into which client or fiduciary funds have been deposited, including, but not limited to bank statements, canceled checks, deposit slips, client ledger cards, check stubs and debit memos and any other records relating to the receipt and disbursement of client and/or fiduciary funds.
- 3. Douglas or any other person having custody or control over records relating to individuals for whom he has provided legal services shall produce to the North Carolina State Bar for inspection and copying all records and documents including but not limited to client files, billing statements, memoranda and receipts. Current client files shall be made available or produced within 24 hours of demand by the State Bar and closed client files shall be made available or produced within 3 days of demand by the State Bar.
- 4. If Douglas does not have possession of the minimum records required to be maintained regarding trust and fiduciary funds pursuant to Rules 1.15-2 and 1.15-3 of the Rules of Professional Conduct, he shall direct the bank(s) where his bank account(s) are maintained, within 10 days of the date of this order, to copy and transmit any such missing records directly to the North Carolina State Bar at Douglas's expense.
- 5. Douglas shall provide the State Bar within 30 days with identification of all funds held in trust in any trust account, including but not limited to providing a client ledger for each client who has a positive balance in any client trust account he maintains, along with contact information for each such client.

- 6. Douglas shall not serve in any fiduciary capacity, including trustee, escrow agent, settlement agent, personal representative, executor or attorney-in-fact until and unless he is permitted to do so by further order of this Court.
- 7. As a limited exception to the injunction contained in this Order, Douglas is authorized to disburse funds he holds on behalf of the following estates to the successor fiduciaries appointed by the Scotland County Clerk of Superior Court and identified in Findings of Fact 9 and 10, above:
 - a) Estate of Jackie Lindsay, file # 93-E-217; and
 - b) Estate of Margaret Louise McRae Douglas, file # 07-E-308.

With respect to these estates, Douglas is also permitted to execute such documents as are necessary to effectuate the transfer of any other estate assets to the successor fiduciary. When Douglas files with the Clerk his final accounting for each of the above-referenced estates, he shall furnish a copy of the same to the State Bar.

- 8. All the assets of the above-referenced estates are exempted from the preliminary injunction to allow the transfer of said assets for administration by a duly appointed successor fiduciary. Thus, notwithstanding the injunctive relief granted in paragraphs 1 through 6 above, the Court expressly authorizes any bank in which Douglas maintains fiduciary accounts for the benefit of the above-referenced estates to permit Douglas to disburse those fiduciary funds to William R. Purcell, II, Guardian of Estate of Jackie R. Lindsey and Margaret Douglas Thomas, Administrator of Estate of Margaret Louise McRae Douglas, or any other duly appointed successor fiduciary.
- 9. Nothing in this Order shall relieve Douglas of the obligation to account for his receipt and disbursement of all funds in fiduciary accounts maintained by him, including the accounts referenced in this order.
- 10. This Order of Preliminary Injunction shall remain in effect until further orders of this Court.

This the $\frac{1}{2}$ day of $\frac{1}{2}$, 2012.

Wake County Superior Court Judge

WE CONSENT

Carmen H. Bannon

Attorney for Petitioner

Luther A. Douglas III

Respondent

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